



## Department for Transport

Mr Jaur Rahman  
Correspondence Manager  
Rail Executive  
Department for Transport  
Great Minster House  
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Mr S Marr

[By email: [request-304994-6ca08e61@whatdotheyknow.com](mailto:request-304994-6ca08e61@whatdotheyknow.com)]

Web Site: [www.gov.uk/dft](http://www.gov.uk/dft)

Our Ref: F0013086

23<sup>rd</sup> December 2015

Dear Mr Marr,

### **Freedom of Information Act Request – F0013083**

Thank you for your information request of 29<sup>th</sup> November 2015. Your request has been considered under the Freedom of Information (FOI) Act 2000. I am writing to confirm that the Department has now completed its search for the information. Please see below our reply under each of your requests.

***I am writing to request the following for each of the Train Operating Companies currently operating services:***

- A copy the penalty fares scheme approved by the Department that is currently in force***
- Any appendixes and attached documents***

Please find attached requested information. In total there should be schemes available for:

- Govia Thameslink Railway including Southern
- c2c
- Abellio East Anglia
- South West Trains
- East Midland Trains
- London Midland
- Southeastern
- GWR
- Chiltern
- DB Regio Nexus
- Merseyrail

***- A copy of the instructions given to authorised collectors***

If we hold that information it had been disclosed as part of the schemes. If there is no staff instructions there we do not hold that information (or it has been redacted).

***- For those train operating companies that do not have a penalty fares scheme in place, confirmation that they do not operate a penalty fares scheme***

The following train operating companies (TOCs) do not operate penalty fares:

- Virgin Trains East Coast
- Virgin West Coast
- Northern
- Transpennine Express
- Arriva Trains Wales
- Arriva CrossCountry
- Open access operators (Grand Central and Hull Trains)

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The names and contact details of Department officials and staff in TOCs (that is staff below the Directorship level) have been redacted in reliance on the third party personal information exemption at section 40(2)&(3) of the Freedom of Information Act 2000 (the relevant text of the exemption is attached at Annex A). These individuals have a reasonable expectation that their names and direct contact details will not be placed into the public domain. To do so would be unfair and would contravene the first data protection principle of fairness.

Some of the information in the attachments are being withheld in reliance on the exemption at section 43(2) - prejudice to commercial interests; of the Freedom of Information Act. As section 43(2) is a qualified exemption we are required to balance the public interest in disclosing the information against that for withholding it. Annex A to this letter sets out the exemptions in full and details why the public interest test favours withholding the information.

The information supplied to you continues to be protected by the Copyright, Designs and Patents Act 1988. You are free to use it for your own purposes, including for private study and non-commercial research, and for any other purpose authorised by an exception in current copyright law. Documents (except photographs) can be also used in the UK without requiring permission for the purposes of news reporting. Any other re-use, for example commercial publication, would require the permission of the copyright holder.

Copyright in other documents may rest with a third party. For information about obtaining permission from a third party see the Intellectual Property Office's website at [www.ipo.gov.uk](http://www.ipo.gov.uk).

If you are unhappy with the way the Department has handled your request or with the decisions made in relation to your request you may complain within two calendar months of the date of this letter by writing to the Department's FOI Advice Team at:

Zone D/04  
Ashdown House  
Sedlescombe Road North  
Hastings  
East Sussex TN37 7GA  
E-mail: FOI-Advice-Team-DFT@dft.gsi.gov.uk

Please send or copy any follow-up correspondence relating to this request to the FOI Advice Team to help ensure that it receives prompt attention. Please also remember to quote the reference number above in any future communications.

Please see attached details of DfT's complaints procedure and your right to complain to the Information Commissioner.

Yours Sincerely

**Jeaur Rahman**

Correspondence Manager | Rail Executive – Passenger Services

## **Your right to complain to DfT and the Information Commissioner**

You have the right to complain within two calendar months of the date of this letter about the way in which your request for information was handled and/or about the decision not to disclose all or part of the information requested. In addition a complaint can be made that DfT has not complied with its FOI publication scheme.

Your complaint will be acknowledged and you will be advised of a target date by which to expect a response. Initially your complaint will be re-considered by the official who dealt with your request for information. If, after careful consideration, that official decides that his/her decision was correct, your complaint will automatically be referred to a senior independent official who will conduct a further review. You will be advised of the outcome of your complaint and if a decision is taken to disclose information originally withheld this will be done as soon as possible.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

## **Annex A**

### **40 Personal Information Exemption**

(1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.

(2) Any information to which a request for information relates is also exempt information if—

- (a) it constitutes personal data which do not fall within subsection (1), and
- (b) either the first or the second condition below is satisfied.

(3) The first condition is—

(a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of “data” in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene—

(i) any of the data protection principles, or

(ii) section 10 of that Act (right to prevent processing likely to cause damage or distress), and

(b) in any other case, that the disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles if the exemptions in section 33A(1) of the Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded.

## 43 Commercial interests

(1) Information is exempt information if it constitutes a trade secret.

**(2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).**

(3) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice the interests mentioned in subsection (2).

### **Public Interest Test (Communication from the DfT to Bidders)**

<b>Factors for disclosure</b>	<b>Factors against disclosure</b>
<ul style="list-style-type: none"><li>- The public interest in scrutinising different penalty fare schemes.</li><li>- The Government has promoted the ideal that information should be made public rather than not, and that Government should be more transparent.</li></ul>	<ul style="list-style-type: none"><li>- Disclosure of the redacted information would be damaging to the TOCs as it would reveal the list of discretions given to authorised collectors of fares. Public knowledge of this may result in passengers taking advantage of these discretions, which they may not be entitled to.</li><li>- Disclosure of methods of checks at stations would be likely to undermine the effectiveness of such checks.</li><li>- Disclosure of penalty fare stations, operating depots and arrangements would undermine the effectiveness of revenue protection ability.</li><li>- Disclosure of training programmes uniquely designed by operators would allow competitors to copy the programmes without incurring</li><li>- Disclosure would make TOCs reluctant to provide the Department information that they are not required to.</li><li>- This would prejudice the Department's ability to carry out its policy and planning functions and limit the information available to the Department.</li></ul>
<b>Decision Reached</b>	
The parts of the penalty fare schemes are being <u>withheld</u> as disclosure of these information would prejudice the commercial interests TOCs and prejudice the Department's ability to carry out its policy.	